

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

In Re:) Chapter 11
)
Olympus Healthcare Group, Inc., <i>et al.</i> ,) Case Nos. 01-1849-1851 (WSS)
Debtors.) (Jointly Administered)
)
KATHARINE B. SACKS, AS)
RECEIVER OF FIVE FACILITIES)
FORMERLY OWNED AND) C.A. Nos. 05-581, 05-582 (KAJ)
OPERATED BY PEGASUS)
MANAGEMENT, INC.,)
)
Appellant,)
v.)
)
CRAIG JALBERT, LIQUIDATING)
SUPERVISOR FOR OLYMPUS)
HEALTHCARE GROUP, INC. <i>et al.</i> ,)
US NURSING CORPORATION,)
)
Appellees.)

**MOTION TO CONSOLIDATE BANKRUPTCY APPEALS PURSUANT TO
FED.R.CIV.P. 42(a), FILED BY KATHARINE B. SACKS, AS THE STATE OF
CONNECTICUT'S NURSING HOME RECEIVER FOR FIVE FACILITIES
FORMERLY OWNED AND OPERATED BY PEGASUS MANAGEMENT
COMPANY, INC.**

Katharine B. Sacks ("Ms. Sacks") as the State of Connecticut's nursing home receiver for five facilities formerly owned and operated by Pegasus Management Company, Inc., by and through her undersigned counsel, Reed Smith LLP, files this Motion to Consolidate Appeals Pursuant to Fed.R.Civ.P. 42(a) and in support thereof, respectfully states as follows:

FACTUAL BACKGROUND

1. To ensure the preservation of her rights, Ms. Sacks has filed two separately docketed appeals (the "Appeals") with this Court.

2. The first appeal, docketed in this Court as # 1:05-cv-00581-KAJ, relates to the Memorandum and Order Denying Motion of Defendant For An Order Setting Aside the Default and Default Judgment (the “Default Judgment Order”), issued by the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”) on June 23, 2005, in Adversary Proceeding # 03-53411(PBL) (Bankr. D. Del.).

3. The second appeal, docketed in this Court as # 1:05-cv-00582-KAJ, relates to the Order Authorizing and Approving Settlement Agreement (the “Settlement Order”), issued by the Bankruptcy Court on June 28, 2005, in Adversary Proceeding # 03-53411(PBL) (Bankr. D. Del.).

RELIEF REQUESTED

4. Ms. Sacks respectfully requests that this Court consolidate both of the Appeals.

BASIS FOR RELIEF REQUESTED

5. Federal Rule of Civil Procedure (“Fed.R.Civ.P.”) 42(a) provides for the consolidation of “actions involving a common question of law or fact.” See Fed.R.Civ.P. 42(a). Fed.R.Civ.P. 42(a) is made applicable in the bankruptcy context by Federal Rule of Bankruptcy Procedure (“Fed.R.Bankr.P.”) 7042.

6. Fed.R.Civ.P. 42(a) is the mechanism by which District Courts consolidate bankruptcy court appeals that involve common questions of law or fact. See Tully Constr. Co. v. Cannonsburg Env'tl. Assoc., Ltd. (in re Cannonsburg Env'tl. Assoc., Ltd.), 72 F.3d 1260, 1269 (6th Cir. 1996) (stating that the District Court did not abuse its discretion by consolidating appeals and citing, *inter alia*, Fed.R.Civ.P. 42(a)); United States v. Clifford (In re Clifford), 255 B.R. 258, 262 (D. Mass. 2000) (consolidating

bankruptcy court appeals pursuant to Fed. R. Civ. P. 42(a) as made applicable by Fed.R.Bankr.P. 9014 and 7042); Steingold v. Seven Springs, Inc. (In re Seven Springs, Inc.), 1993 WL 752456, * 3 (E.D. Va. 1993) (consolidating bankruptcy appeals and citing, *inter alia*, Fed.R.Civ.P. 42(a)).

7. The Appeals involve common questions of law and fact. The appeal of the Settlement Order is wholly dependent on the appeal of the Default Judgment Order and does not require separate briefing or oral argument.

STATEMENT OF CONFERENCE PURSUANT TO D. Del. LR 7.1.1

8. Counsel for Ms. Sacks has consulted with counsel for each of the appellees to the Appeals. Counsel for each of the appellees has informed counsel for Ms. Sacks that the appellees consent to the relief sought herein.

STATEMENT REGARDING BRIEFING PURSUANT TO D. Del. LR 7.1.2(a)(3)

9. Because of the nature of this Motion Ms. Sacks does not believe that briefing is required. Ms. Sacks waives her right to file a brief in support of this Motion.

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WHEREFORE, for the reasons stated herein, Ms. Sacks respectfully requests that this Court consolidate the Appeals and grant Ms. Sacks such other and further relief as is appropriate.

Dated: November 22, 2005
Wilmington, Delaware

Respectfully submitted,
REED SMITH LLP

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